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U.S. Department of Homeland Security

Bureau of Citizenship and Immigration Services

ADMINISTRATIVE APPEALS OFFICE
425 Eye Street N.W.
BCIS, AAO, 20 Mass Ave, 3rd Floor
Washington, D.C. 20536

[redacted]

JUL 29 2003

File: SFR 214F 1785 Office: SAN FRANCISCO, CALIFORNIA Date:

IN RE: Petitioner: [redacted]

Petition: Petition for Approval of School for Attendance by Nonimmigrant Students under Section 101(a)(15)(F)(i) of the Immigration and Nationality Act, 8 U.S.C. §1101(a)(15)(F)(i)

IN BEHALF OF PETITIONER:

[redacted]

INSTRUCTIONS:
This is the decision in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Bureau where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. *Id.*

Any motion must be filed with the office that originally decided your case along with a fee of $110 as required under 8 C.F.R. § 103.7.

for

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The Petition for Approval of School for Attendance by Nonimmigrant Students (Form I-17) was denied by the District Director, San Francisco, California. The matter is now before the Administrative Appeals Office on appeal. The appeal will be sustained and the petition will be approved.

The Form I-17 reflects that the petitioner in this matter, University of East-West Medicine, is a private school established in 1998. The school offers a degree in Master of Science in Traditional Chinese Medicine. The school declares an average annual enrollment of 10 students and 42 faculty members. The petitioner seeks initial approval for attendance by F-1 nonimmigrant academic students.

The director denied the petition, finding that the petitioner failed to provide the Bureau with evidence that its courses of study are accepted as fulfilling the requirements for the attainment of an educational, professional, or vocational objective. The director also determined that the petitioner had failed to establish that it was accredited. Further, the director determined that the petitioner had violated the regulations by advertising that it issued Form I-20 to foreign students.

Counsel filed a timely notice of appeal and submits additional documentation for review on appeal.

8 C.F.R. 214.3(b) specifies required supporting evidence, in pertinent part, as follows:

> Any other petitioning school shall submit a certification by the appropriate licensing, approving, or accrediting official who shall certify that he or she is authorized to do so to the effect that it is licensed, approved, or accredited.

At the time of filing, the petitioner submitted a letter from [redacted] the Executive Officer of the California Acupuncture Board (Board). The letter indicates that on November 28, 2001, the Board voted to grant full approval to the petitioner's Masters program. The petitioner also submitted a letter from the California Bureau for Private Postsecondary and Vocational Education indicating that the petitioner's application to operate was approved on October 12, 1999. Clearly, as these approvals from the state of California meet the requirements of the above-referenced regulation, the director did not take issue with such approval.

If the petitioner is an institution of higher education and is not a public school or a school accredited by a nationally recognized accredited body, 8 C.F.R. 214.3(c) provides that the following additional evidence must be submitted:

> [E]vidence that is confers upon its graduates recognized bachelor, master, doctor, professional, or divinity degrees, or if does not confer such degrees that its credits have been and are accepted unconditionally by at least three such institutions of higher learning.

On June 6, 2003, nearly seven months after the filing of the appeal, the petitioner submits evidence from the Accreditation Commission for Acupuncture and Oriental Medicine

(ACAOM). We note that there is no regulation which allows the petitioner an open-ended or indefinite period in which to supplement a previously filed appeal. 8 C.F.R. 103.3(a)(2)(vii) requires a petitioner to request, in writing and in advance, additional time to submit a brief. The existence of this regulation demonstrates that the late submission of supplements to an appeal is a privilege rather than a right.

Further, the letter from ACAOM states that it granted the petitioner "candidacy" from May 4, 2003 until the spring of 2006. However, candidacy means only that the petitioner shows "promise" of meeting the accreditation criteria of the ACAOM, it does not show that the petitioner is actually accredited. As the petitioner is a non-accredited private school, and counsel acknowledges that the petitioner does not confer recognized degrees, the petitioner is, therefore, required to show that its credits have been and are accepted unconditionally by at least three such institutions of higher learning.

In his decision the director indicates that the letters in the record are insufficient as the schools do not indicate that they accept credits from the petitioner's *graduates*. However, the regulation does not contain any language that requires acceptance of graduate's credits, only that three institutions of higher learning unconditionally accept the petitioner's credits.

On appeal, the petitioner submits updated letters from two of the schools that provided letters for the petitioner's initial submission. An additional letter, written on behalf of Five Branches Institute, replaces the letter from South Baylo University, as the Academic Dean who signed South Baylo University's original letter was not available in time to submit the appeal. Counsel explains that all of the schools have engaged in the practice of accepting the petitioner's credits in the past but did not state such practices in their original letters because they were unaware of the regulatory requirements. The two updated letters, as well as the letter from Five Branches Institute, indicate that each school unconditionally accepts transfer credits from the petitioner and specifically lists students whose transfer credits have been accepted. Such statements satisfy the requirements of the regulation.

The remaining issue is whether the petitioner violated the regulations through its advertising of the availability of Forms I-20. On appeal, counsel concurs that the language used by the petitioner's website was in violation of the regulations, but contends that the violation was a result of an innocent mistake. Counsel further argues that the petitioner took immediate steps to rectify the violation and revised its website. Copies of the revised website were submitted for the record.

We see little harm in a school's use of language that refers to the Form I-20, in an informational way, like in a description of the school's application and acceptance process. Such a description, when used for this instructional purpose, is not an advertisement, and must include the Form I-20 reference to provide the student with accurate information on procedures. Clearly, however, it is not permissible for a school, like the petitioner, who has not yet received approval from the Bureau for the issuance of Form I-20, to refer to the Form I-20 as part of its application process. However, while inappropriate, we do not find that such a reference is a violation of section 214.3(j). We agree with the district director that the petitioner's language is misleading and gives the appearance of Bureau approval,

but do not find that the reference was used in material that advertised the petitioner's approval for attendance by nonimmigrant students.

In this case, the petitioner has provided a plausible explanation for its reference to the Form I-20 despite lack of approval from the Bureau. Further, when notified of the problem, the petitioner removed the questionable language from its materials.

This evidence submitted on appeal is sufficient to justify approval of the petition. To remand the matter for a new decision would merely delay a favorable action toward the petitioner.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has sustained that burden. Accordingly, the decision of the director denying the petition will be withdrawn and the petition will be approved.

ORDER: The appeal is sustained and the petition is approved.